

BEST AVAILABLE COPY

03/24/2006 10:40 7709510933

THOMAS, KAYDEN

PAGE 08

Serial No.: 09/407,149
Art Unit: 2684
Page 6

REMARKS

1. Present Status of Patent Application

Upon entry of the amendments in this response, claims 1-4, 9-11, 13-19, and 21-24 remain pending in the present application. Claims 1, 11, and 17 have been amended to include features from previous co-pending claims that have been previously examined such that the claims are believed to be in condition for allowance for at least the reasons stated below.

2. Response to Rejection of Claims under 35 U.S.C. § 103(a)

Claims 1-4, 9, 10, 11, 13, 17, 18, 21, 22, and 23 have been rejected under 35 U.S.C. § 103(a) as being purportedly unpatentable over *Qureshey* (WO 99/38266) in view of *Schindler* (U.S. Patent No. 5,867,223). Claims 5, 12, 19, and 24 have been rejected under 35 U.S.C. § 103(a) as being purportedly unpatentable over *Qureshey* and *Schindler* in view of *Lang* (U.S. Patent No. 5,737,692). Claims 14-15 have been rejected under 35 U.S.C. § 103(a) as being purportedly unpatentable over *Qureshey* and *Schindler* in view of *Dao* (U.S. Patent No. 5,915,207). Claim 16 has been rejected under 35 U.S.C. § 103(a) as being purportedly unpatentable over *Qureshey* and *Schindler* in view of *Bolas* (U.S. Patent No. 6,389,463). It is well established at law that, for a proper rejection of a claim under 35 U.S.C. § 103 as being obvious based upon prior art, the prior art must disclose, teach, or suggest, either implicitly, all elements/features/steps of the claim at issue. *See, e.g., In re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

a. Claim 1

As provided in independent claim 1, Applicant claims:

A method for receiving digital information and transmitting the information in a localized area, comprising the steps of:

receiving audio communications from a plurality of streams of digital information from at least one remote source via the Internet;

converting the digital information from the plurality of streams to respective analog information associated with each respective stream;

broadcasting concurrently the respective analog information associated with multiple streams from the plurality of streams of digital information at low

BEST AVAILABLE COPY

03/24/2006 10:40 7709510933

THOMAS, KAYDEN

PAGE 09

Serial No.: 09/407,149

Art Unit: 2684

Page 7

power in a localized area in - multiple preselected radio frequencies chosen by at least one user; and

receiving the broadcast information associated with the multiple streams in the localized area on multiple radio frequency receivers, each receiver tuned to one of the preselected frequencies to permit listening to one of the audio communications associated with one of the multiple streams, *wherein the broadcasting concurrently of the respective analog information associated with multiple streams is initiated at a predetermined time chosen by the at least one user and in at least one of the preselected frequencies chosen by the at least one user, the at least one user tuning one of the radio frequency receivers to one of the preselected radio frequencies.*

(Emphasis added).

Applicant respectfully asserts that the rejection of claim 1 should be withdrawn because the cited art fails to disclose or otherwise teach the steps that are highlighted above. Specifically, the Office Action states that *Lang* "teaches the means for programming comprising a program for setting a time to activate the means for broadcasting." Office Action, page 13. In reviewing the *Lang* disclosure, however, *Lang* seemingly teaches that a preselected AM/FM station is encoded for a RF signal which is transmitted to a wireless remote alert device. Regardless of the preselected AM/FM station, *Lang* teaches that the station will be encoded to the same RF signal that is received by the remote alert device. For example, the remote alert device 40 does not appear to have any mechanism for allowing a user to tune "to one of the preselected radio frequencies," as described in the claim.

Qureshey and *Schindler* and the other references also fail to teach or suggest the highlighted features. For at least this reason, a *prima facie* case of obviousness has not been established, and the rejection of claim 1 should be withdrawn.

b. Claims 2-4, 9-10, and 23

Because independent claim 1 is allowable over the prior art of record, dependent claims 2-4, 9-10, and 23 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that the dependent claims contain all the steps and features of independent claim 1. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

BEST AVAILABLE COPY

03/24/2006 10:40 7709510933

THOMAS, KAYDEN

PAGE 10

Serial No.: 09/407,149

Art Unit: 2684

Page 8

c. Claim 11

As provided in independent claim 11, Applicant claims:

An apparatus for receiving information and broadcasting the information in a localized area, the apparatus comprising:
means for receiving a plurality of streams of digital information from at least one remote source via the Internet;
means for converting the plurality of streams of digital information to respective analog information associated with each respective stream;
means for broadcasting concurrently the respective analog information of multiple streams of the plurality of streams of digital information in a localized area in multiple preselected radio frequencies chosen by at least one user; and
means for programming the means for broadcasting, the means for programming comprising a program for setting a time to activate the means for broadcasting, wherein the at least one user tunes a radio frequency receiver to one of the preselected radio frequencies.

(Emphasis added).

Applicant respectfully asserts that the rejection of claim 11 should be withdrawn because the cited art fails to disclose or otherwise teach the steps that are highlighted above. Specifically, the Office Action states that *Lang* "teaches the means for programming comprising a program for setting a time to activate the means for broadcasting." Office Action, page 13. In reviewing the *Lang* disclosure, however, *Lang* seemingly teaches that a preselected AM/FM station is encoded for a RF signal which is transmitted to a wireless remote alert device. Regardless of the preselected AM/FM station, *Lang* teaches that the station will be encoded to the same RF signal that is received by the remote alert device. For example, the remote alert device 40 does not appear to have any mechanism for allowing a user to tune "to one of the preselected radio frequencies," as described in the claim.

Qureshey and *Schindler* and the other references also fail to teach or suggest the highlighted features. For at least this reason, a *prima facie* case of obviousness has not been established, and the rejection of claim 11 should be withdrawn.

d. Claims 13-16 and 24

Because independent claim 11 is allowable over the prior art of record, dependent claims 13-16 and 24 (which depend from independent claim 11) are allowable as a matter of law for at least the reason that the dependent claims contain all the elements and features of independent

BEST AVAILABLE COPY

03/24/2006 10:48 7709510933

THOMAS, KAYDEN

PAGE 11

Serial No.: 09/407,149

Art Unit: 2684

Page 9

claim 11 and *Dao* and *Bolas* fail to cure the deficiencies of the *Qureshey*, *Schindler*, or *Lang* references.

e. Claim 17

As provided in independent claim 17, Applicant claims:

A method for receiving digital information and transmitting the information in a localized area, the method comprising the steps of:

receiving a plurality of streams of digital information from at least one remote source via the Internet;

converting the plurality of streams of digital information to respective analog information associated with each respective stream;

broadcasting concurrently the respective analog information associated with multiple streams of the plurality of streams of digital information in a localized area in multiple preselected radio frequencies chosen by at least one user, wherein at least one of the preselected radio frequencies is a frequency modulated radio frequency; and

setting a time to activate the broadcasting step, wherein the at least one user tunes a radio frequency receiver to one of the preselected radio frequencies.

(Emphasis added).

Applicant respectfully asserts that the rejection of claim 17 should be withdrawn because the cited art fails to disclose or otherwise teach the steps that are highlighted above. Specifically, the Office Action states that *Lang* "teaches the means for programming comprising a program for setting a time to activate the means for broadcasting." Office Action, page 13. In reviewing the *Lang* disclosure, however, *Lang* seemingly teaches that a preselected AM/FM station is encoded for a RF signal which is transmitted to a wireless remote alert device. Regardless of the preselected AM/FM station, *Lang* teaches that the station will be encoded to the same RF signal that is received by the remote alert device. For example, the remote alert device 40 does not appear to have any mechanism for allowing a user to tune "to one of the preselected radio frequencies," as described in the claim.

Qureshey and *Schindler* and the other references also fail to teach or suggest the highlighted features. For at least this reason, a *prima facie* case of obviousness has not been established, and the rejection of claim 17 should be withdrawn.

BEST AVAILABLE COPY

03/24/2006 10:40 7709510933

THOMAS, KAYDEN

PAGE 12

Serial No.: 09/407,149
Art Unit: 2684
Page 10

f. Claims 18-19 & 21

Because independent claim 17 is allowable over the prior art of record, dependent claims 18-19 and 21 (which depend from independent claim 17) are allowable as a matter of law for at least the reason that dependent claims 18-19 and 21 contain all the steps and features of independent claim 17.

g. Claims 5, 12, and 22

Claims 5, 12, and 22 are canceled without prejudice, waiver, or disclaimer, and therefore, the rejection to these claims are rendered moot. Applicant takes this action merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicant reserves the right to pursue the subject matter of these canceled claims in a continuing application, if Applicant so chooses, and does not intend to dedicate any of the canceled subject matter to the public.

CONCLUSION

For at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,



Charles W. Griggers, Reg. No. 47,283

THOMAS, KAYDEN,
HORSTEMEYER & RISLEY, L.L.P.
Suite 1750
100 Galleria Parkway N.W.
Atlanta, Georgia 30339
(770) 933-9500